

AMENDED IN ASSEMBLY MAY 18, 1999

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 1509

Introduced by Assembly Member Machado

February 26, 1999

An act to amend ~~Section~~ *Sections 1748.10 and 1748.12* of the Civil Code, relating to credit card issuers.

LEGISLATIVE COUNSEL'S DIGEST

AB 1509, as amended, Machado. Credit cards: marketing information.

Existing law requires a credit card issuer to provide written notice to all persons who are holders of the issuer's credit cards if the issuer discloses marketing information, as defined, concerning a consumer which discloses the consumer's identity to any person, except specified 3rd parties. The notice is required to describe the cardholder's right to prohibit this disclosure. Existing law specifies the methods of satisfying this requirement.

This bill would recast this provision to, among other things, require that a credit card issuer provide the notice before the issuer discloses the information and, if the information is disclosed, at least once per year. The bill would also revise the definition of marketing information, as specified, and exempt communications to a corporate subsidiary or affiliate of the card issuer that are not used for marketing purposes from the disclosure prohibition.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. *Section 1748.10 of the Civil Code is*
2 *amended to read:*

3 1748.10. This act shall be known and may be cited as
4 the “~~Areias-Robbins~~ Credit Card Full Disclosure Act Of
5 1986.”

6 SEC. 2. Section 1748.12 of the Civil Code is amended
7 to read:

8 1748.12. (a) For purposes of this section:

9 (1) “Cardholder” means any consumer to whom a
10 credit card is issued, provided that in cases when more
11 than one credit card has been issued for the same account,
12 all persons holding those credit cards may be treated as
13 a single cardholder.

14 (2) “Credit card” means any card, plate, coupon book,
15 or other single credit device existing for the purpose of
16 being used from time to time upon presentation to obtain
17 money, property, labor, or services on credit. “Credit
18 card” does not mean any of the following:

19 (A) Any single credit device used to obtain telephone
20 property, labor, or services in any transaction under
21 public utility tariffs.

22 (B) Any device that may be used to obtain credit
23 pursuant to an electronic fund transfer but only if the
24 credit is obtained under an agreement between a
25 consumer and a financial institution to extend credit
26 when the consumer’s asset account is overdrawn or to
27 maintain a specified minimum balance in the consumer’s
28 asset account.

29 (C) Any key or card key used at an automated
30 dispensing outlet to obtain or purchase petroleum
31 products, as defined in subdivision (c) of Section 13401 of
32 the Business and Professions Code, which will be used
33 primarily for business rather than personal or family
34 purposes.



1 (3) “Marketing information” means the
2 categorization of cardholders compiled by a credit card
3 issuer, based on a cardholder’s shopping patterns,
4 spending history, or behavioral characteristics derived
5 from account activity which is provided to a marketer of
6 goods or services or a subsidiary or affiliate organization
7 of the company that collects the information for
8 consideration. “Marketing information” does not include
9 aggregate data which does not identify a cardholder
10 based on the cardholder’s shopping patterns, spending
11 history, or behavioral characteristics derived from
12 account activity or any communications to any person in
13 connection with any transfer, processing, billing,
14 collection, chargeback, fraud prevention, credit card
15 recovery, or acquisition of or for credit card accounts.

16 (b) At least 60 days prior to the initial disclosure of
17 marketing information concerning a cardholder to any
18 person, the credit card issuer shall provide a written
19 notice to the cardholder that clearly and conspicuously
20 describes the cardholder’s right to prohibit the disclosure
21 to marketers of goods or services of marketing
22 information concerning the cardholder which discloses
23 the cardholder’s identity. The notice shall include a
24 preprinted form in 10-point type by which the cardholder
25 may exercise this right and shall advise the cardholder of
26 a toll-free telephone number that the cardholder may call
27 to exercise this right.

28 (c) The requirements of subdivision (b) shall be
29 satisfied by furnishing to the cardholder a preprinted
30 form in 10-point type for the cardholder that clearly and
31 conspicuously describes the cardholder’s right to prohibit
32 the disclosure of marketing information and a toll-free
33 telephone number that the cardholder may call to
34 exercise this right. This initial notice to the cardholder
35 shall be provided (1) on or with the credit application and
36 (2) on or with the credit card when it is delivered to the
37 cardholder. If a credit card issuer decides to disclose
38 marketing information after the initial receipt of the
39 credit card by the cardholder, but prior to the passing of
40 one year from the date of receipt, the issuer shall notify



1 the cardholder prior to the initial disclosure of marketing
2 information relating to the cardholder. No notice need be
3 furnished to a cardholder to whom prior notice has been
4 given, as to whom no marketing information will be
5 disclosed, or to whom notice has been given prior to the
6 effective date of this act, which complies with subdivision
7 (b).

8 (d) In addition to the initial disclosure required
9 pursuant to subdivision (b), on or after January 1, 2000,
10 each credit card issuer who discloses marketing
11 information for consideration shall clearly and
12 conspicuously disclose, at least once per calendar year, at
13 intervals of not less than six months nor more than 12
14 months, to every cardholder entitled to receive an annual
15 statement of billings rights pursuant to 12 C.F.R. 226.99
16 (Regulation Z) the cardholder's right to prohibit the
17 future disclosure of marketing information. The notice
18 required by this subdivision and with the delivery of the
19 renewal card may be included on or with any periodic
20 statement and shall include a preprinted form in 10-point
21 type by which the cardholder may exercise this right and
22 shall advise the cardholder of a toll-free telephone
23 number which the cardholder may call to exercise this
24 right.

25 (e) (1) The cardholder's election to prohibit
26 disclosure of marketing information shall be effective
27 only with respect to marketing information that is
28 disclosed to any party after the card issuer has received
29 and processed the cardholder's election pursuant to
30 subdivision (b) or (d), not to exceed three working
31 weeks, and shall not apply to communications covered by
32 subdivision (f).

33 (2) An election to prohibit disclosure of marketing
34 information, as provided in subdivision (b) or (d), shall
35 terminate upon receipt by the credit card issuer of notice
36 from the cardholder that the cardholder's election under
37 subdivision (b) or (d) is no longer effective.

38 (f) The requirements of subdivisions (b) and (d) do
39 not apply to any of the following communications of
40 marketing information by a credit card issuer:



1 (1) Communications to any party to, or merchant
2 specified in, the credit card agreement, or to any person
3 whose name appears on the credit card or on whose
4 behalf the credit card is issued.

5 (2) Communications to consumer credit reporting
6 agencies, as defined in subdivision (d) of Section 1785.3.

7 (3) Communications to a corporate subsidiary or
8 affiliate of the card issuer that are not used for marketing
9 purposes.

10 (4) Communications to a third party when the third
11 party is responsible for conveying information from the
12 card issuer to any of its cardholders.

13 (g) If the laws of the United States require disclosure
14 to cardholders regarding the use of personal information,
15 compliance with the federal requirements shall be
16 deemed to be compliance with this section.

